## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA BRYSON CITY DIVISION 2:14 CV 006

JAMES D. DAVIS,	)	
Plaintiff,	)	
v	)	<u>ORDER</u>
·	)	
WESTERN CAROLINA UNIVERSITY, THE UNIVERSITY OF NORTH	)	
CAROLINA,	)	
Defendants.	)	

THIS MATTER is before the undersigned pursuant to a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#9) which was filed on April 28, 2014. On May 5, 2014 the Plaintiff filed an amended complaint apparently pursuant to the provision of Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. As a result of the filing of the amended complaint, there has not been joinder of issues in this case as provided by the Local Rules of Civil Procedure. LCvR 16.1(D) defines Joinder of Issues as follows:

(D) Joinder of the Issues. For the limited purpose of these Local Civil rules, "joinder of the issues" occurs when the final answer to a complaint, third-party complaint, or crossclaim or the final reply to counterclaim has been filed, or the time for doing so has expired. Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues. Where Rule 12 motions are filed and briefed, issues will not join until such

motions are resolved by the court, unless otherwise ordered by the Court.

As a result of the foregoing, the undersigned respectfully declines to enter a Pretrial Order and Case Management Plan at this time. When the issues in this case have joined, then the parties should file an amended certification of initial attorneys conference within the time limits as set forth by LCvR 16.1.

## **ORDER**

**IT IS, THEREFORE**, **ORDERED** that the Court, at this time, will **DECLINE** to enter a Pretrial Order and Case Management Plan as requested by the parties in the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#9).

Signed: May 7, 2014

Dennis L. Howell

United States Magistrate Judge

Course & House